

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GOVERNMENT'S MOTION TO DISMISS ORIGINAL INDICTMENT

Now comes the United States, by its attorneys, Michael J. Sullivan, United States Attorney, and David G. Tobin, Assistant U.S. Attorney, and hereby moves this Honorable Court to dismiss the original indictment in the above-captioned case that was handed down by the Grand Jury on May 27, 2004. On December 16, 2004, the Grand Jury handed down a superseding indictment against the same three defendants. Defendants Adam Ellard and Timothy Herlihy pled guilty to the superseding indictment and have been sentenced by this Court. Defendant Troy Brewer was convicted after a jury trial of the offenses charged in the superseding indictment and has been sentenced. The interests of justice are best served with the dismissal of the original indictment.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ David G. Tobin
DAVID G. TOBIN
Assistant U.S. Attorney

Dated: October 24, 2005